

U.S. PTO Customer No. 25280

Case #5719

REMARKS3. and 4. 35 USC Section 112 Rejection

Claims 1-25 and 27-39 were rejected under 35 USC Section 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner requests clarification of whether the absorbent particulate needs to be present in the cleaning composition and whether the "parts" are by weight.

Applicants respectfully disagree with the Examiner's assertion that it is unclear whether the absorbent particulate is present in the instant liquid cleaning composition. Claim 1, for example, clearly states that the liquid cleaning composition consists essentially of three components - an absorbent particulate, water, and a dispersion stabilizing agent. With regard to the absorbent particulate, claim 1 states "at least one absorbent particulate present in an amount not more than about 75 parts by weight." Thus, the absorbent particulate is present, and it is present in an amount that is not greater than 75 parts by weight. Although the lower limit of this range is not specified, the absorbent particulate is clearly present and required in the liquid cleaning composition of the present invention.

With regard to the recitation of "parts by weight," the exemplary formulations provided in the Examples section by Applicants provide clear support that "parts by weight" is intended to mean parts per hundred parts by weight.

Reconsideration and withdrawal of this rejection is earnestly requested.

5. and 6. 35 USC §103 (a) Rejections:

Claims 1-11, 13-16 and 21-38 were rejected under 35 USC §103 (a) as being unpatentable over Trinh et al. (US Patent No. 4,481,126).

The Examiner submits that Trinh discloses (a) a substantially nonabrasive, liquid car cleaner composition which cleans car surfaces without an external source of water to wash or rinse (Abstract); (b) that the product is a composition of up to 30% polymeric solids, up to 95% liquid

U.S. PTO Customer No. 25280

Case #5719

carrier and a suspension aid (Abstract); (c) that other optional ingredients such as waxes, fluorosurfactants, anticorrosion agents, antistatic agents, sunscreens agents, inorganic mild abrasives, pigments, perfumes, and preservatives can also be used for added benefit (col. 2, lines 64-68); (d) that the composition comprises organic polymeric solids selected from the group consisting of porous and/or nonporous powdered particles in the particle size range of from 1 micron to about 250 microns (col. 2, lines 37 – 42); (e) that mixtures of water and aliphatic hydrocarbon solvents are used as the liquid carrier; and (f) that both surfactants and thickeners are used as the suspending agent.

The Examiner notes that the reference fails to teach the particle size of calcium carbonate used. However, the Examiner submits that the reference teaches mild inorganic abrasives such as calcium carbonate powder (col. 6, lines 28 – 31) and further teaches the particle sizes of other solids that are present. Thus, the Examiner believes there would be a reasonable expectation of success to modify the prior art to arrive at the instantly claimed invention because the prior art suggest a particle size of other solids to be suspended.

The Examiner also notes that the reference fails to teach the specific surfactant of claim 11. However, the Examiner submits that there would be a reasonable expectation of success to modify the prior art to arrive at the instantly claimed invention because the prior art does suggest that any surfactant that is compatible with the system may be used.

The Examiner also notes that the reference fails to teach that the acrylic component disclosed is an acrylic stain resistant agent. However, the Examiner believes that since the reference teaches that acrylic additives may be used, there would be a reasonable expectation of success that material of the same structure will have similar properties.

The Examiner also asserts that while Applicants argue there is no motivation to remove the silicone component from Trinh's cleaning composition, there is no need to omit silicone for the claims to read on the Trinh reference. Both the claims and the reference are drawn to cleaning compositions, and silicone "does not affect cleaning in any deleterious fashion." Thus, the Examiner contends that the recitation of "consisting essentially of" in claim 1 does not amend around compositions containing silicone.

U.S. PTO Customer No. 25280

Case #5719

Applicants respectfully disagree with the basis of this rejection on a number of levels:

- (1) Applicants believe that there is no motivation provided for removing required components of Trinh's car cleaning composition, as suggested by the Examiner;
- (2) Applicants believe that there is no reasonable expectation of success that Trinh's car cleaning composition would work on a textile substrate;
- (3) Applicants contend that this rejection is clearly based upon improper hindsight reconstruction of Applicants' own disclosure; and
- (4) Applicants submit that all of the claim limitations have not been taught or suggested by the prior art.

Specifically with regard to item (1) above:

Trinh et al. clearly require the presence of silicone and polymeric fibers within its car cleaning composition (see claims and Examples). While the Examiner contends that silicone fails to "materially affect" the properties of the compositions taught by Trinh, Applicants respectfully disagree and note that silicone is a required component in the claims. Furthermore, Trinh include silicone in nearly every example provided in the specification (see DC 200@ Silicones shown in Examples 1-XVI). Additionally, Trinh disclose that the silicone is included to "provide or enhance the gloss/shine appearance of car surfaces, improve the ease of application and removal of the cleaner, and make the car surfaces water repellent for added protection" (col. 6, lines 1-4). Furthermore, silicone is suggested for use at levels up to 20% by weight of the composition (col. 2, lines 61-62). While Trinh et al. may suggest that silicone is an optional ingredient (column 2, line 65 to column 3, line 31), none of the other "optional ingredients" appear to be included in the Examples and claims provided by Trinh et al.

As a result of such teachings by Trinh, Applicants respectfully submit that silicone is a required component of Trinh's composition and respectfully submit that no motivation is provided by the reference for removing it from the composition. Additionally, Applicants respectfully submit that there is no motivation for removing the polymeric fibers from the composition taught and claimed by Trinh. For example, how would one of ordinary skill in the art arrive at the composition claimed by Applicants wherein said composition fails to include silicone and/or polymeric fibers? Applicants respectfully contend that one of ordinary skill would not be motivated by the teachings of Trinh et al. to remove these components from the composition.

U.S. PTO Customer No. 25280

Case #5719

Specifically with regard to item (2) above:

Additionally, one of ordinary skill in the art would also need some motivation or suggestion by Trinh that the car cleaning composition would be acceptable for use on textile substrates. For example, how would one know whether the composition could be removed from a carpet? Or, would it successfully remove soil from an upholstery fabric? Applicants respectfully contend that there is no motivation or suggestion made by Trinh that would lead one of ordinary skill in the art to conclude that Trinh's composition would work for textile substrates or that it could be modified for use on textile substrates. In other words, Applicants respectfully submit that there is no expectation of success provided by the teachings of Trinh et al. that the car cleaning composition would be suitable for use on textile substrates.

The Examiner asserts that "there is no need to omit silicone for the claims to read on the Trinh reference" and "the silicone does not affect cleaning in any deleterious fashion" (see Final Office Action dated 12/5/05, page 9). Applicants respectfully disagree.

In fact, while Applicants have not submitted a formal Declaration under 37 CFR Section 1.132, Applicants have tested the composition of Trinh and found that the composition indeed fails to function as a suitable cleaning composition for a textile substrate. Applicants have submitted Exhibits A – D herewith as evidence of this comparison testing. It should be noted that Applicants are willing to submit, if necessary, a formal Declaration under 37 CFR Section 1.132 in order to overcome this argument presented by the Examiner.

The comparative testing performed by Applicants and illustrated in Exhibits A – D is as follows:

With regard to Exhibits A – D, Applicants re-created the cleaning compositions of Examples VIII and IX (of the Trinh reference). Examples VIII and IX include, among other ingredients, silicone compounds. These cleaning compositions of Trinh and the cleaning composition of the instant invention were applied to various carpet and fabric substrates (i.e. textile substrates) and visual observations were noted and photographed.

U.S. PTO Customer No. 25280

Case #5719

Exhibit A shows the cleaning compositions applied to the textile substrates. The inventive composition is a uniform, stable dispersion. In contrast, the Trinh compositions are non-uniform, pasty, and have formed many large and small clumps.

Exhibit B shows the cleaning compositions after they have been rubbed into the textile surface (this procedure aids in removing soil from the textile substrate). Again, the inventive composition is a stable dispersion. In contrast, the Trinh compositions are clumpy. It appears as though the composition of Example VIII is unable to even penetrate the surface of the textile substrate to provide any cleaning efficacy whatsoever. Example IX appears to have penetrated the surface of the textile substrate to some degree, but it also has formed many clumps as well.

Exhibit C shows the cleaning compositions after vacuuming. The inventive composition has been removed completely from the textile substrates. The cleaning composition of Example VIII has been removed completely as well; however, since it never penetrated the surface of the textile substrate to begin with, one might expect that it would be easily removed from the textile substrate. But, without penetrating the surface of the textile substrate, the cleaning composition does not provide any cleaning efficacy whatsoever. With regard to Example IX, vacuuming removed the clumps that were present on the textile substrate; however, the remainder of the cleaning composition of Example IX remained adhered to the surface of the textile substrate after vacuuming.

The carpet substrates from Exhibit C were then soiled. Then, the application, rubbing, and vacuuming process described above was repeated for all textile substrates. Exhibit D shows the textile substrates after this process. The inventive composition was again completely removed from the textile substrates. The soil was completely removed as well. The cleaning composition of Example VIII formed clumps during the application and rubbing steps, and thus, did not penetrate the surface of the textile substrates to provide any cleaning efficacy. The cleaning composition of Example IX penetrated the surface of the textile substrates to some degree and formed small clumps. The small clumps were removed during vacuuming, but the cleaning composition that did penetrate the surface of the textile substrates remained adhered to the substrates.

With regard to the soil applied to the carpet samples of Examples VIII and IX, the dark areas observed on the carpet show that the soil was not completely removed from the carpet for either of Trinh's cleaning compositions. The cleaning compositions of Examples VIII and IX that are notated as containing less silicone appear to be slightly less soiled than their counterparts, which have more

U.S. PTO Customer No. 25280

Case #5719

silicone present in the cleaning composition. This leads one to believe that silicone detrimentally affects the ability of the cleaning composition to remove soil from textile substrates such as carpet.

Thus, Applicants respectfully contend that the cleaning compositions taught by Trinh are not suitable for use as cleaning compositions for textile substrates, as taught and claimed by Applicants. Furthermore, the additional ingredients required in the Trinh composition (e.g. silicone) do indeed have a deleterious affect on the cleaning efficacy of the cleaning composition when used on textile substrates.

Specifically with regard to item (3) above:

Based on the arguments provided herein by Applicants, Applicants respectfully contend that the Examiner's position regarding the applicability of Trinh to the pending claims is untenable as a clear exercise of improper hindsight reconstruction of Applicants' claimed invention. The ordinarily skilled artisan would not view the disclosure provided by Trinh et al. for car cleaning compositions, which requires the presence of silicone and polymeric fibers, and take away from this teaching any motivation of removing such required components from patentee's composition. Nor would the ordinarily skilled artisan expect that patentee's composition would work on a textile substrate.

Specifically with regard to item (4) above:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art (MPEP § 2143.03). Applicants respectfully submit that Trinh et al. fail to provide a teaching or fair suggestion that a vacuum retrieval additive or an acrylic stain resist agent is present in the car cleaning composition. Trinh et al. mention the use of polyethylene oxide and salts of polyacrylic acid polymer as thickener suspending agents (col. 5, lines 39-44). The purpose of these thickener suspending agents is to stabilize the dispersion and emulsion by increasing the viscosity of the suspending or emulsifying medium (col. 5, lines 35-38). Thus, Applicants respectfully submit that Trinh et al. fail to teach or suggest components of the composition that would aid in removing a cleaning composition from a textile substrate (i.e. a vacuum retrieval additive) or provide a barrier to stains for a textile substrate (i.e. an acrylic stain resist agent).

U.S. PTO Customer No. 25280

Case #5719

In summary, Applicants respectfully contend that one of ordinary skill in the art would not be motivated by the teachings of Trinh et al. to create a liquid cleaning composition that is suitable for use on textile substrates consisting essentially of an absorbent particulate, water and surfactant, a dispersion stabilizing additive, and optionally further comprising a vacuum retrieval additive or an acrylic stain resist agent. Thus, Applicants respectfully contend that claims 1-11, 13-16 and 21-38 are not obvious over the teachings of Trinh et al. Reconsideration and withdrawal of this rejection is earnestly requested.

7. Claims 19 and 20 were rejected under 35 USC §103 (a) as being unpatentable over Trinh et al. (US Patent No. 4,481,126) further in view of Froehlich (US Patent No. 3,910,848) or Brown (US Patent No. 5,514,302).

The Examiner submits that the primary reference fails to teach that aerosol may be used with the liquid cleaner of the variety disclosed and that Froehlich reference teaches that a cleaning composition containing urea-formaldehyde polymer particles having a particle size of from 10 to 105 microns and an oil value of at least 90, a halogenated solvent boiling at from 45 degrees to 120 degrees C, a silica antisetling agent, a cationic antistatic agent, and an aerosol propellant selected from at least one of trichlorofluoromethane, dichlorodifluoromethane, 1,2-dichlorotetrafluoroethane, propane, isobutene, and butane. (col. 1, lines 37-60). Brown also teaches the use of propellants such as propane, isopropane, n-butane, isobutane, isopentane or n-hexane. Therefore, the Examiner believes there is a reasonable expectation of success that an aerosol may be used with the composition of the reference as the composition of the secondary reference has similar structural properties, uses and components.

Applicants respectfully submit that the Examiner has invoked hindsight reconstruction to improperly reject the instant claims and rely on the previously presented discussion of the deficiencies of Trinh et al. Applicants further contend that the secondary references fail to overcome the deficiencies of Trinh et al. by failing to teach a composition consisting of at least one absorbent particulate, water and surfactant, and a dispersion stabilizing additive. Accordingly, since the cited art fails to teach the limitations as claimed by Applicants in independent claim 1, and since claims 19 and 20 each depend directly or indirectly from this claim, Applicants respectfully submit that a *prima facie* case of obviousness has not been established. Thus, reconsideration and withdrawal of this rejection is earnestly requested.

U.S. PTO Customer No. 25280

Case #5719

8. Claims 1-4, 6-15, 17, 18 and 27-38 were rejected under 35 USC §103 (a) as being unpatentable over Suzuki et al. (US Patent No. 4,534,892).

The Examiner contends that Suzuki et al. discloses (a) a liquid detergent composition containing an anionic surface active agent and a water-insoluble fine powder characterized by containing therein a crosslinking type amphoteric polymer and an inorganic salt (Abstract); (b) that several glycols and phosphates may be used and that the foaming properties are improved using a polyacrylic acid and a pH adjuster (col. 3, lines 15 – 25 and col. 1, lines 48 and 54 – 63); (c) that the particle size of the water-insoluble fine powder is less than 150 microns; (d) that nonionic surface active agents, amphoteric surface active agents and cationic surface active agents may be used in combination with the anionic surface active agents; and (e) that the examples show that water makes up the balance of the composition.

The Examiner contends that the reference fails to teach the specific biocides used. However, the reference does teach that germicides may be used; therefore, the Examiner believes that there would be a reasonable expectation that any germicide may be used in the absence of superior or unexpected results.

The Examiner further states that Suzuki clearly teaches compositions comprising insoluble fibers (abstract) which may be acrylates.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art (MPEP § 2143.03). Applicants respectfully submit that Suzuki et al. fail to disclose a dispersion stabilizing agent, as disclosed and claimed by Applicants.

The Examiner points to column 1 (lines 48 and 54 – 63) of Suzuki et al. for disclosure of polyacrylic acid, which is one example of a dispersion stabilizing agent of the instant invention. However, this disclosure by Suzuki et al. is actually a discussion of the prior art and refers specifically to Japanese Patent Publication No. 49117/1974 (see Suzuki et al. at col. 1, beginning with line 39). Thus, this citation does not provide evidence that Suzuki et al. teaches a dispersion stabilizing agent. Furthermore, the other citation provided by the Examiner – column 3, lines 15 to 25 – also fails to disclose a teaching by Suzuki et al. of a dispersion stabilizing agent. Rather, Suzuki et al. teach using monovinyl compounds (i.e. "cross linking monomers"), such as acrylic acid esters, which can

U.S. PTO Customer No. 25280

Case #5719

be polymerized with an amphoteric monomer. Thus, the component that is incorporated into the cleaning composition taught by Suzuki et al. is the resulting polymerization product from the reaction described above. In contrast, Applicants claim dispersion stabilizing agents selected from the group consisting of air, cellulosic polymers, starches, clay compounds, xanthan gums, polyacrylic acids and esters, polyacrylamide, polyvinyl alcohol and mixtures thereof.

Additionally, Applicants respectfully submit that the Examiner's assertion that "Suzuki clearly teaches compositions comprising insoluble fibers (abstract) which may be acrylates" is incorrect (see Final Office Action dated 12/5/05, page 9). The abstract of USPN 4,534,892 fails to disclose anything related to fibers. Thus, the relevance of this statement as provided by the Examiner is not understood by Applicants.

Thus, Applicants respectfully maintain the position that Suzuki et al. fail to teach each every limitation of Applicants' claimed invention and therefore, a *prima facie* case of obviousness has not been established. Reconsideration and withdrawal of this rejection is earnestly requested.

Conclusion:

For the reasons set forth above, it is respectfully submitted that all claims now stand in condition for allowance. Should any issues remain after consideration of these Remarks, the Examiner is invited and encouraged to telephone the undersigned in the hope that any such issue may be promptly and satisfactorily resolved.

In the event that there are additional fees associated with the submission of these papers, authorization is hereby provided to withdraw such fees from Deposit Account No. 04-0500.

June 2, 2006

Milliken & Company
Legal Department, M-495
920 Milliken Road
PO Box 1926
Spartanburg, SC 29304

Respectfully requested,

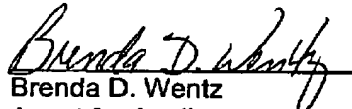
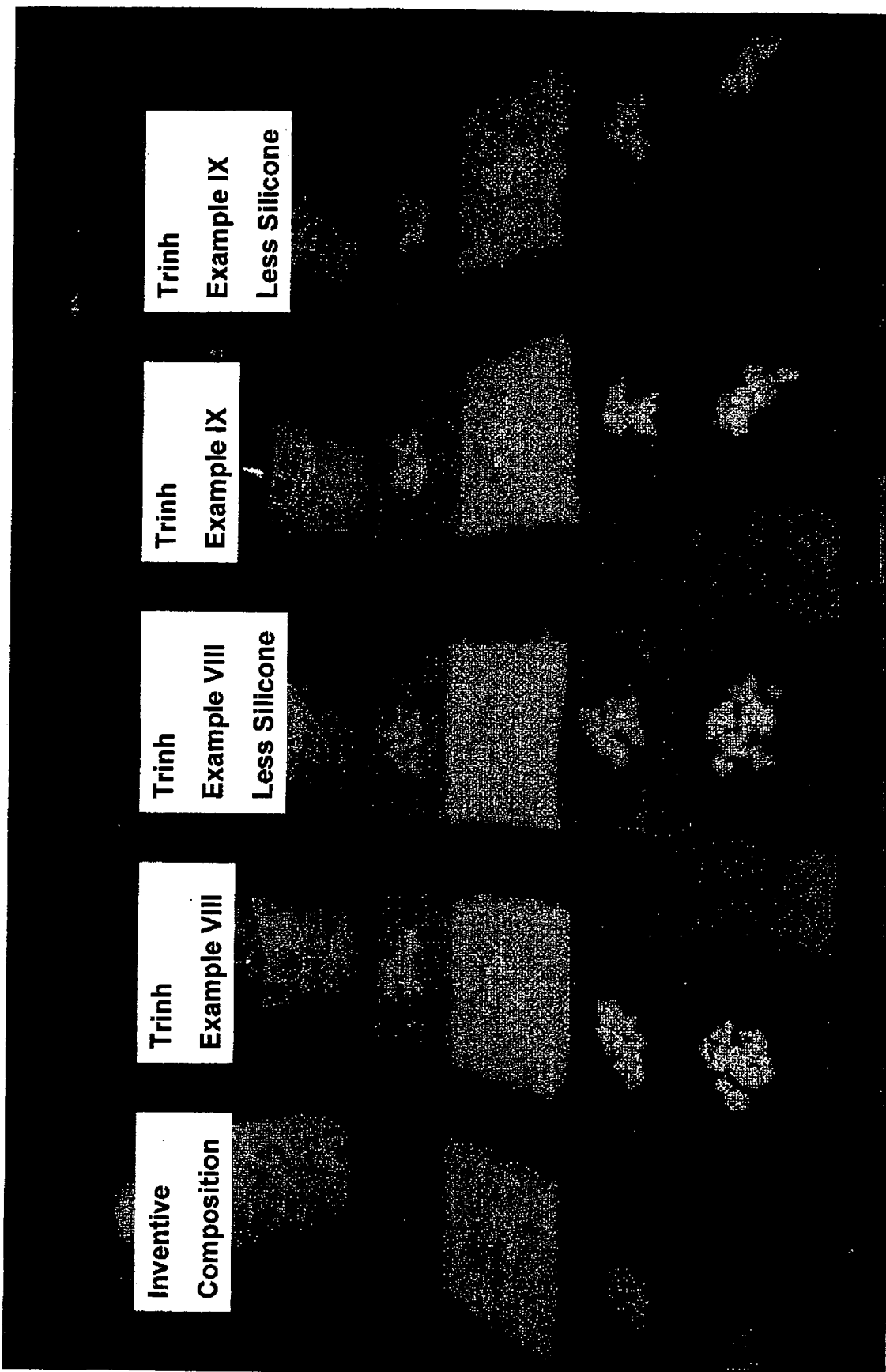

Brenda D. Wentz
Agent for Applicants
Registration Number: 48,643
(864) 503-1597

Exhibit A



Inventive
Composition

Trinh
Example VIII

Trinh
Example VIII
Less Silicone

Trinh
Example IX

Trinh
Example IX
Less Silicone

Product Applied

Exhibit A

BEST AVAILABLE COPY

Exhibit B

Inventive
Composition

Trinh
Example VIII

Trinh
Example VIII
Less Silicone

Trinh
Example IX

Trinh
Example IX
Less Silicone

Post Rub in

Exhibit B

BEST AVAILABLE COPY

Exhibit C

Inventive
Composition

Trinh
Example VIII

Trinh
Example VIII
Less Silicone

Trinh
Example IX

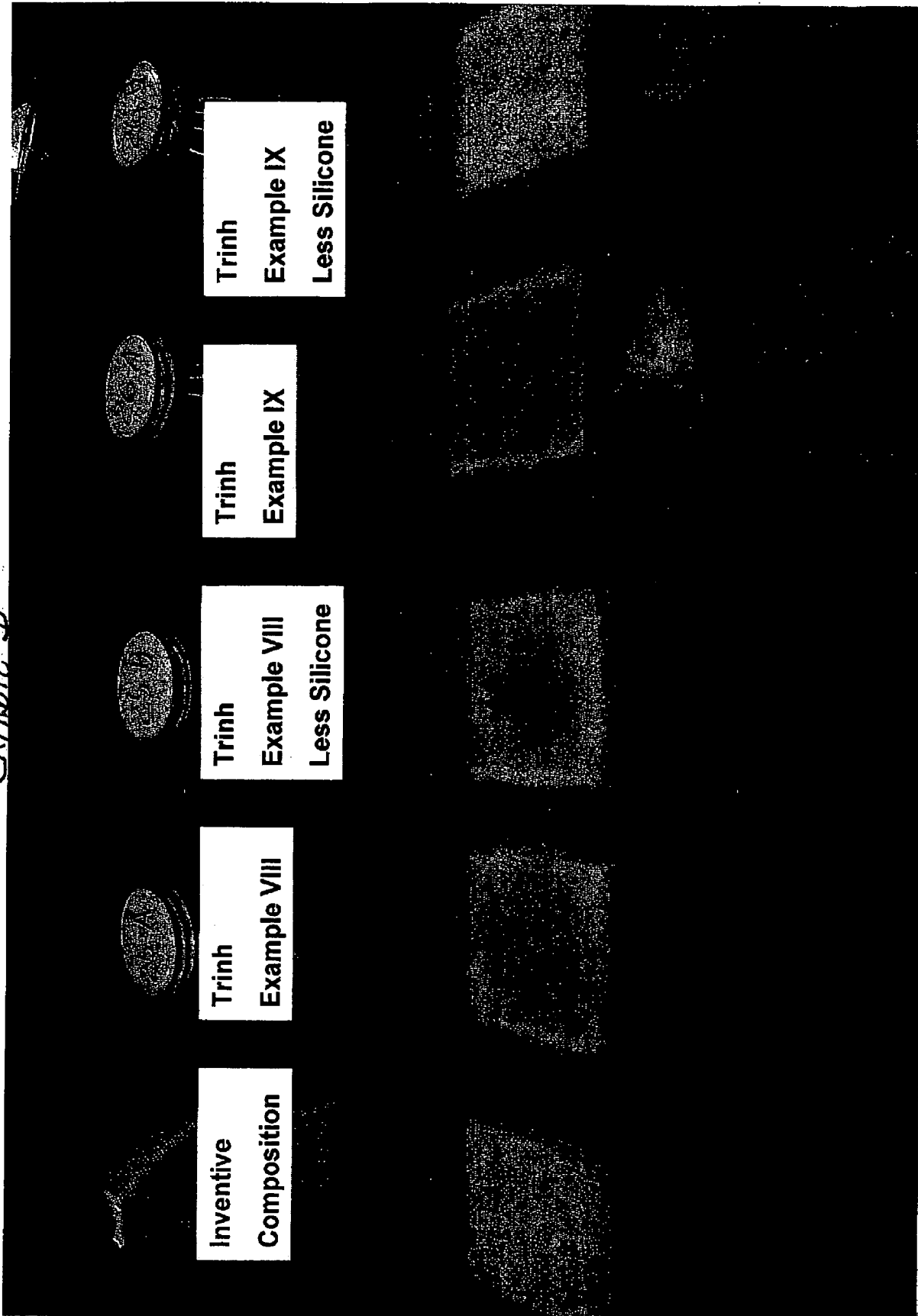
Trinh
Example IX
Less Silicone

Post vacuuming

Exhibit C

BEST AVAILABLE COPY

Exhibit D



Soiled and then vacuummed second time

Exhibit D
BEST AVAILABLE COPY